

## **INFORMATION BULLETIN #39**

### **INCOME TAX**

**FEBRUARY, 2008**

**(Replaces Information Bulletin #39, dated August 2007)**

**DISCLAIMER:** Information Bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is inconsistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, information provided in this Bulletin should only serve as a foundation for further investigation and study of the current law and procedures related to its subject matter.

**SUBJECT:** Guidelines For Reporting Income From Indiana Sources By  
Nonresident Individuals

**REFERENCE:** IC 6-3-2-2

### **INTRODUCTION**

Nonresident individuals deriving income from Indiana sources are subject to Indiana adjusted gross income tax. To determine Indiana income, the income derived from an Indiana business or profession must be allocated to Indiana. If a trade or business is carried on both within and outside Indiana, the nonresident's business income must be apportioned under a three factor formula.

## **I. NONRESIDENT INDIVIDUAL FILING REQUIREMENTS**

Nonresidents with income from the following Indiana sources are required to file a Part Year or Full Year Nonresident Indiana Individual Income Tax Return, Form IT-40PNR:

1. Nonresident individuals with Indiana income from salaries, wages, commissions, sole proprietor income, and professional fees.
2. Nonresident beneficiaries of Indiana or non-Indiana trusts or estates in which the beneficiaries receive income derived from the operation of a business, rental property, or farm, controlled by the trust or on their own behalf through the value of the trust.
3. Nonresident individuals with winnings from Indiana's riverboats and lotteries.

For taxable years beginning after December 31, 2007 (tax year 2008 for returns filed in 2009), nonresident partners of a partnership, nonresident members of a limited liability company or nonresident shareholders of an S corporation where the pass through entity does business in Indiana, are required to be a part of a composite return filed by the pass through entity for all nonresident partners, members or shareholders.

If the individual has other Indiana source income that is not part of the composite return, the requirement to be a part of the composite return is not eliminated. If the individual has no other source of Indiana income, being included in the pass through entity's composite return will eliminate the requirement for the individual to file Form IT-40PNR.

Income tax withheld for a nonresident shareholder will be credited on Form IT-40PNR if the shareholder elects or is required to file Form IT-40PNR, and the income from the pass through entity is reported on Form IT-40PNR, Schedule A, Column B (income taxed by Indiana).

## **II. NONRESIDENT INDIVIDUAL INCOME ALLOCATED TO INDIANA**

Certain types of income of a nonresident are directly allocated to Indiana.

1. Salaries, wages, fees, commissions, and all other types of income received by a nonresident employee for services performed in Indiana;
2. Income from a trade or business (including professional services) or a farming operation carried on entirely within Indiana;
3. Income and gains received from tangible property (both real and personal) used in a business which consists mainly of holding property and collecting the income from property held in Indiana;
4. Income from intangibles such as dividends, interest and royalties if the income is derived from an Indiana business operation.
5. Winnings from Indiana's riverboats and lotteries.

The allocated Indiana income must be reported on the appropriate line of the Nonresident Tax Return, Form IT-40PNR.

### **III. NONRESIDENT INDIVIDUAL INCOME APPORTIONED TO INDIANA**

Taxable income from a trade or business carried on within and outside Indiana must be computed using a three-factor formula consisting of property, payroll, and the sales factor. For more information on determining Indiana apportioned income, please refer to Information Bulletin #12. The discussion below lists the three factors and the items that are included in each factor.

#### **SALES FACTOR**

The sales factor is determined by dividing the total sales in Indiana by the total sales everywhere, expressed as a percentage. Sales are determined to be Indiana sales if:

1. Sales are shipped to Indiana (assuming Indiana nexus);
2. Sales are shipped within Indiana;
3. Sales are from Indiana to the U.S. Government; or
4. Sales are from Indiana to a purchaser outside of Indiana when the taxpayer is not subject to tax in the state of the purchaser.

#### **PROPERTY FACTOR**

The property factor is determined by dividing total property, real and personal, owned or rented and used by the taxpayer in Indiana during the

taxable year in connection with a trade or business, by the total property used by the taxpayer everywhere, expressed as a percentage.

### PAYROLL FACTOR

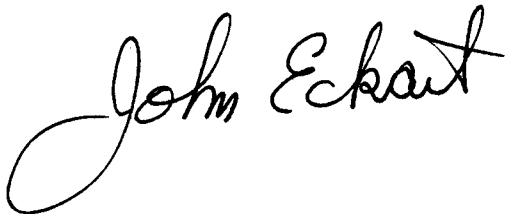
The payroll factor is determined by dividing total payroll paid in Indiana (for officers and employees in connection with a trade or business) by the entire payroll of the trade or business, expressed as a percentage.

An apportionment schedule must be completed when calculating Indiana apportioned income for the nonresident sole proprietor, partner, shareholder of an S Corporation, a member of a limited liability company, or a beneficiary of a trust.

In order to complete the schedule, the following tax information will be used in determining Indiana apportioned income to the nonresident:

1. Nonresident individual proprietors - net income from federal Schedule C;
2. Nonresident partners - Indiana Form IT-65, net income of a nonresident partner;
3. Nonresident shareholders of S Corporations - Indiana Form IT-20S, net income of a nonresident shareholder;
4. Nonresident member of a limited liability company - the appropriate federal form to determine the member's distribution;
5. Nonresident beneficiaries - Indiana Form IT-41, net income of a nonresident beneficiary.

If you have any questions concerning the allocation or apportionment of Indiana income to a nonresident, contact the Department of Revenue, Tax Administration Division, Room N203, Indiana Government Center North, Indianapolis, IN 46204.

A handwritten signature in black ink that reads "John Eckart". The signature is fluid and cursive, with a large loop at the beginning of the "J" and a stylized "Eckart".

John Eckart  
Commissioner